

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOE DASILVA, JR.,) Civil No. 20-11358
) Hon. Mark A. Goldsmith
Plaintiff,)
v.)
)
CHRISTINE WORMUTH,)
Secretary of the Army, and)
MARTIN POTTER, in his)
individual capacity)
)
Defendant.)
_____)

DEPOSITION OF JOE DASILVA, JR.

DATE: Wednesday, September 7, 2022

TIME: 10:00 a.m. to 4:27 p.m.

FACILITATED BY: Free State Court Reporting

PURSUANT TO: Notice by counsel for the Defendant for purposes of discovery, use at trial, or such other purposes as permitted under the Federal Rules of Civil Procedure and Federal Rules of Evidence

REPORTED BY: JEREMY TIEKING

Page 152

1 attitude like they change. They're like you better know your
2 job, and you know, it's not my job to save you, and you know
3 all these things. So, but that did happen, the accident.

4 Q. Do you -- do you believe that any -- the firefighter
5 -- well, who reacted like -- who failed to help you?

6 A. Captain Skabilia was the captain on that day. He
7 said he even moved, and he knew it was going to hit me.

8 Q. But he's not one of the people that you listed as
9 being someone who discriminated or retaliated against you or
10 created a hostile work environment for you.

11 A. You're asking me what possibly changed, and I'm
12 telling you what could have changed. I don't know, but
13 people change as they move up in rank and do things.

14 Q. Do you allege that Skabilia discriminated against
15 you?

16 A. I'm not saying that. I feel uncomfortable that he
17 didn't stop what he was doing to make sure I was okay, so
18 that was a little, you know. The guy -- some of the guys
19 said we don't trust you because you went against management,
20 or you know, you filed this against Potter and he's a good
21 chief, and he's -- I'm like well, I'm sorry. He's a good
22 chief to you, but he's not a good chief to me, what he did to
23 me.

24 Q. Are you naming Skabilia as someone who discriminated
25 against you, retaliated against you, or created a hostile

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902
Balt. & Annap. 410-974-0947

FREE STATE REPORTING, INC.
Court Reporting Transcription

1 work environment toward you?

2 A. No.

3 Q. Okay.

4 A. I'll say no.

5 Q. Who else failed to come to your rescue during the
6 fire that you mentioned a minute ago other than Skabilia?

7 A. Well, the driver couldn't do anything, so, I don't
8 know. It's just they probably had -- they were busy, and
9 they probably had something to do, so. So, I don't know
10 anybody. There was only three or four of us there, so.

11 You just asked me what I thought. I thought the guys
12 would stop, and maybe now that I'm thinking about it, they
13 might have -- couldn't stop what's going on, so, to probably
14 save me, so, I don't know. So, just being honest with you of
15 what I thought, you know.

16 Q. Did you report that incident to your -- to anyone?

17 The fire in which you got knocked out?

18 A. That was -- there was an incident done because I had
19 to go to the hospital.

20 Q. Okay.

21 A. Yeah, so.

22 Q. There was an incident report done?

23 A. I believe so. I mean, I went to the hospital. We
24 were helping another city, so.

25 Q. Do you allege as part of this lawsuit that anyone

FREE STATE REPORTING, INC.

Court Reporting Transcription

D.C. Area 301-261-1902

Balt. & Annap. 410-974-0947

FREE STATE REPORTING, INC.
Court Reporting Transcription

Page 154

1 reacted in a way that was discriminatory or retaliatory with
2 regard to the fire that you just mentioned?

3 A. Not in the fire that I mentioned, probably not, but
4 the way they treat me at the station and stuff, you know.

5 Q. So, let me ask you that question again then. Has
6 anyone said or done anything to you that you consider to be
7 threatening as part of your claim -- as part of the claims
8 that you make in this case?

9 MR. ALTMAN: Objection, form, asked and answered.

10 THE WITNESS: Did I answer it?

11 MR. ALTMAN: Go ahead and answer.

12 THE WITNESS: I think that I feel the threat of them
13 not taking my complaint serious. I felt threatened after. I
14 felt unsafe. I felt scared. I felt every time I went to
15 work great, I got the EEO, I've got the SHARP, I think I got
16 the director now pissed off at me, and you know, am I really
17 going to be safe if a fire happens or something's going on or
18 what's happening, you know. I felt that way. It's like a
19 natural instinct, like great because I know everybody's
20 pissed that I did this, so, I feel unsafe because basically
21 they did not take this seriously. They didn't do what they
22 were supposed to. So, yeah, I do feel unsafe and -- and
23 scared at work.

24 BY MR. ANCHILL:

25 Q. And when you say they didn't take this seriously,
FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902
Balt. & Annap. 410-974-0947

FREE STATE REPORTING, INC.
Court Reporting Transcription

Page 182

1 -- yes, sir. I guess I stand corrected because I didn't have
2 anything in front of me, so.

3 Q. So, the earlier references to the 2016 EEO complaint
4 are really the EEO complaint that's exhibit three that you're
5 looking at now?

6 A. Well. Okay, say that again.

7 Q. Yeah. So, earlier we discussed a 2016 EEO
8 complaint.

9 A. Right.

10 Q. I think that refers to the complaint that you're
11 holding in your hand right now, which is exhibit three, which
12 was really done in 2017. Is that correct?

13 A. Yes, but it falls back on the reprisal of the 20 --

14 Q. I understand. I'm only asking about the filing
15 date.

16 A. Okay, yeah, so obviously, yeah. The filing date
17 says this, yes, sir.

18 Q. You initially contacted the EEO counselor on
19 February 6th, 2017?

20 A. Hold on a second.

21 Q. If you flip to the first page, I think I highlighted
22 it.

23 A. That -- that's what the date says, yes, February
24 6th, 2017.

25 Q. If you flip to the next page under basis of
FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902
Balt. & Annap. 410-974-0947

FREE STATE REPORTING, INC.
Court Reporting Transcription

Page 196

1 Q. Did you ever make fun of or poke fun at his stomach
2 during a weight loss competition or a biggest loser
3 challenge?

4 A. I might have. I don't remember to be honest with
5 you. Now you're kind of telling me something, yeah, the
6 weight loss thing, I might have.

7 Q. And is that what triggered Potter to then say well,
8 you ought to wear a bra?

9 A. I don't know sir if that's what triggered it. That
10 I don't know.

11 MR. ALTMAN: One second.

12 (Brief pause in proceeding.)

13 BY MR. ANCHILL:

14 Q. All right, on exhibit three, please flip to page
15 DEF-730 and 731. It's in the lower righthand corner. You
16 and the Army entered into a settlement agreement to settle
17 your 2017 EEO complaint, right?

18 A. Yes.

19 Q. Is that your signature on that agreement?

20 A. Yes, sir.

21 Q. You signed on March 16, 2017?

22 A. Yes, sir.

23 Q. Under paragraph A of the agreement it says that the
24 Army agreed to conduct an inquiry into Edward's alleged rude
25 and discourteous behavior towards you. Do you know one way

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902

Balt. & Annap. 410-974-0947
FREE STATE REPORTING, INC.
Court Reporting Transcription

1 or another whether or not that inquiry took place?

2 A. Well, yeah, because Chief Edwards made the statement
3 that that was the first time he'd ever been written up.

4 Q. Okay.

5 A. Or counseled. That was the first time he'd ever
6 been counseled.

7 Q. Did Edwards ever make an inappropriate statement to
8 you again after that? After he was written up and counseled?

9 A. I don't remember what day that was, sir. So I don't
10 know. Don't remember.

11 Q. Under paragraph 3A of that agreement it says "The
12 Army agrees not to take any disciplinary action against you
13 for acts prior to March 2, 2017." What is this a reference
14 to?

15 A. I don't remember.

16 Q. Was there any discipline potentially in the works?

17 A. I don't remember, sir.

18 Q. In any event, did the Army live up to that aspect of
19 that agreement? Did they ever discipline you for something
20 before March 2, 2017?

21 A. No.

22 Q. Please look at paragraph 6. It says, "In addition,
23 complainant agrees to waive his right to pursue
24 administrative or judicial action in any form concerning the
25 matters raised in this complaint and that they will not be

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902
Balt. & Annap. 410-974-0947

FREE STATE REPORTING, INC.
Court Reporting Transcription

Page 245

1 Q. Not aware of that, okay. Are you aware that Olman
2 also felt that your remarks created a hostile work
3 environment?

4 A. Nope.

5 Q. Did Potter counsel you about this on March 7, 2017?

6 A. Counsel me about what?

7 Q. Making remarks about management, calling them snakes
8 and fucking dumbasses.

9 A. When, of '17?

10 Q. Did he counsel you about that?

11 A. When you said?

12 Q. Well, anytime.

13 A. Well, I don't remember. That's why I'm asking. I
14 don't remember, sir.

15 Q. March 7, 2017.

16 A. I don't remember. He might have. I do not
17 remember. If you have something that can recollect my mind,
18 I'd like to look at it. I don't remember.

19 Q. Okay. I'm showing you what we'll mark as exhibit
20 seven. This is Bates labelled 878 to 880.

21 (At 4:06 p.m., deposition exhibit 7 marked.)

22 BY MR. ANCHILL:

23 Q. I just want to direct your attention to the first
24 page, please. I'm just going to ask you some questions about
25 the first page for now.

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902
Balt. & Annap. 410-974-0947

FREE STATE REPORTING, INC.
Court Reporting Transcription

Page 246

1 A. Yes, sir, go ahead.

2 Q. Did you read the first page, DEF 878?

3 A. Yes, sir.

4 Q. Okay. Is there anything in that memo that is
5 inaccurate?

6 A. Nope, it's probably true. Yes, sir, now I remember.
7 It's been a long time, so.

8 Q. Do you think it's appropriate to call management
9 snakes and fucking dumbasses?

10 A. I don't remember saying it, but --

11 Q. Well, you just said now you remember --

12 A. I remember it.

13 Q. -- after looking at it.

14 A. No, I remember the conv -- I remember a
15 conversation, but I don't know if I said all that.

16 Q. Do you think it's appropriate to call management
17 snakes and fucking dumbasses?

18 A. Given my case and what I've been through with
19 management and not holding up their side of what they need to
20 do, no, sir, because it was a personal feeling that I had and
21 I was frustrated with work and how I was being treated and
22 how I was being harassed and everything, so, I'm sorry.

23 Q. Well, this occurred in early March 2017.

24 MR. ALTMAN: Hold on, hold on, wait, hold on. Were
25 you finished answering?

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902
Balt. & Annap. 410-974-0947

FREE STATE REPORTING, INC.
Court Reporting Transcription